

Revised 03/06 WDNY

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK



FORM TO BE USED IN FILING A COMPLAINT
UNDER THE CIVIL RIGHTS ACT, 42 U.S.C. § 1983
(Prisoner Complaint Form)

24 CV 6566

All material filed in this Court is now available via the INTERNET. See Pro Se Privacy Notice for further information.

1. CAPTION OF ACTION

A. **Full Name And Prisoner Number of Plaintiff:** NOTE: If more than one plaintiff files this action and seeks in forma pauperis status, each plaintiff must submit an in forma pauperis application and a signed Authorization or the only plaintiff to be considered will be the plaintiff who filed an application and Authorization.

1. Brendon Clontz 158567

2. _____

-VS-

B. **Full Name(s) of Defendant(s)** NOTE: Pursuant to Fed.R.Civ.P. 10(a), the names of all parties must appear in the caption. The court may not consider a claim against anyone not identified in this section as a defendant. If you have more than six defendants, you may continue this section on another sheet of paper if you indicate below that you have done so.

1. Lt. McAndrews 4. _____

2. Buffalo Police Department 5. _____

3. _____ 6. _____

2. STATEMENT OF JURISDICTION

This is a civil action seeking relief and/or damages to defend and protect the rights guaranteed by the Constitution of the United States. This action is brought pursuant to 42 U.S.C. § 1983. The Court has jurisdiction over the action pursuant to 28 U.S.C. §§ 1331, 1343(3) and (4), and 2201.

3. PARTIES TO THIS ACTION

PLAINTIFF'S INFORMATION NOTE: To list additional plaintiffs, use this format on another sheet of paper.

Name and Prisoner Number of Plaintiff: Brendon Clontz

Present Place of Confinement & Address: Eric County Correctional Facility
11581 Walden Ave Alden, NY 14004

Name and Prisoner Number of Plaintiff: _____

Present Place of Confinement & Address: _____

DEFENDANT'S INFORMATION NOTE: To provide information about more defendants than there is room for here, use this format on another sheet of paper.

Name of Defendant: LT McAndrews
 (If applicable) Official Position of Defendant: Lieutenant Buffalo Police Department
 (If applicable) Defendant is Sued in _____ Individual and/or _____ Official Capacity
 Address of Defendant: Buffalo Police Headquarters
68 Court Buffalo NY 14202

Name of Defendant: Buffalo Police Department
 (If applicable) Official Position of Defendant: 1
 (If applicable) Defendant is Sued in _____ Individual and/or _____ Official Capacity
 Address of Defendant: 68 Court Buffalo NY 14202

Name of Defendant: Clayton Reed
 (If applicable) Official Position of Defendant: Police officer
 (If applicable) Defendant is Sued in _____ Individual and/or _____ Official Capacity
 Address of Defendant: 68 Court St Buffalo NY 14202

4. PREVIOUS LAWSUITS IN STATE AND FEDERAL COURT

A. Have you begun any other lawsuits in state or federal court dealing with the same facts involved in this action?
 Yes _____ No X

If Yes, complete the next section. NOTE: If you have brought more than one lawsuit dealing with the same facts as this action, use this format to describe the other action(s) on another sheet of paper.

1. Name(s) of the parties to this other lawsuit:
 Plaintiff(s): _____
 Defendant(s): _____
2. Court (if federal court, name the district; if state court, name the county): _____
3. Docket or Index Number: _____
4. Name of Judge to whom case was assigned: _____

5. The approximate date the action was filed: _____

6. What was the disposition of the case?

Is it still pending? Yes ___ No ___

If not, give the approximate date it was resolved. _____

Disposition (check the statements which apply):

___ Dismissed (check the box which indicates why it was dismissed):

___ By court *sua sponte* as frivolous, malicious or for failing to state a claim upon which relief can be granted;

___ By court for failure to exhaust administrative remedies;

___ By court for failure to prosecute, pay filing fee or otherwise respond to a court order;

___ By court due to your voluntary withdrawal of claim;

___ Judgment upon motion or after trial entered for

___ plaintiff

___ defendant.

B. Have you begun any other lawsuits in federal court which relate to your imprisonment?

Yes ___ No X

If Yes, complete the next section. NOTE: *If you have brought more than one other lawsuit dealing with your imprisonment, use this same format to describe the other action(s) on another sheet of paper.*

1. Name(s) of the parties to this other lawsuit:

Plaintiff(s): _____

Defendant(s): _____

2. District Court: _____

3. Docket Number: _____

4. Name of District or Magistrate Judge to whom case was assigned: _____

5. The approximate date the action was filed: _____

6. What was the disposition of the case?

Is it still pending? Yes ___ No ___

If not, give the approximate date it was resolved. _____

Disposition (check the statements which apply):

☐ Dismissed (check the box which indicates why it was dismissed):

☐ By court *sua sponte* as frivolous, malicious or for failing to state a claim upon which relief can be granted;

☐ By court for failure to exhaust administrative remedies;

☐ By court for failure to prosecute, pay filing fee or otherwise respond to a court order;

☐ By court due to your voluntary withdrawal of claim;

☐ Judgment upon motion or after trial entered for

☐ plaintiff

☐ defendant.

5. STATEMENT OF CLAIM

For your information, the following is a list of some of the most frequently raised grounds for relief in proceedings under 42 U.S.C. § 1983. (This list does not include all possible claims.)

- | | | |
|--------------------|------------------------|-------------------------------|
| • Religion | • Access to the Courts | • Search & Seizure |
| • Free Speech | • False Arrest | • Malicious Prosecution |
| • Due Process | • Excessive Force | • Denial of Medical Treatment |
| • Equal Protection | • Failure to Protect | • Right to Counsel |

Please note that it is not enough to just list the ground(s) for your action. You **must** include a statement of the facts which you believe support each of your claims. In other words, tell the story of what happened to you but do not use legal jargon.

Fed.R.Civ.P. 8(a) states that a pleading must contain "a short and plain statement of the claim showing that the pleader is entitled to relief." "The function of pleadings under the Federal Rules is to give fair notice of the claim asserted. Fair notice is that which will enable the adverse party to answer and prepare for trial, allow the application of res judicata, and identify the nature of the case so it may be assigned the proper form of trial." Simmons v. Abruzzo, 49 F.3d 83, 86 (2d Cir. 1995). **Fed.R.Civ.P. 10(b)** states that "[a]ll averments of claim ... shall be made in numbered paragraphs, the contents of each of which shall be limited as far as practicable to a single set of circumstances."

Exhaustion of Administrative Remedies

Note that according to 42 U.S.C. § 1997e(a), "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted."

You must provide information about the extent of your efforts to grieve, appeal, or otherwise exhaust your administrative remedies, and you must attach copies of any decisions or other documents which indicate that you have exhausted your remedies for each claim you assert in this action.

A. FIRST CLAIM: On (date of the incident) November 8th 2020 10^{Am},
 defendant (give the name and position held of each defendant involved in this incident) Buffalo Police

Department name of Police is on City of Buffalo
Ny, Court Documents.

did the following to me (briefly state what each defendant named above did): On November 8th
2020 at approx 10⁰⁰Am a Buffalo Police officer used
excessive force at Mand T Bank Parking lot near
Cazenovia St and Seneca St Buffalo Ny 14210. I
Brendon Clontz was Pepper sprayed and Batoned
for no reason by Buffalo Police officers. Ambulance
arrived I said Im not gonna sign a HIPAA consent
form they then denied me medical treatment.

The constitutional basis for this claim under 42 U.S.C. § 1983 is: Excessive Force, False Arrest,
Denial of Medical Treatment.

The relief I am seeking for this claim is (briefly state the relief sought): ~~11830~~ Civil Lawsuit.

Exhaustion of Your Administrative Remedies for this Claim:

Did you grieve or appeal this claim? Yes ☒ No ☐ If yes, what was the result? _____

Did you appeal that decision? Yes ☒ No ☐ If yes, what was the result? _____

Attach copies of any documents that indicate that you have exhausted this claim.

If you did not exhaust your administrative remedies, state why you did not do so: N/A

A. SECOND CLAIM: On (date of the incident) 10/31/23 approx 10^{Am},

defendant (give the name and position held of each defendant involved in this incident) LT McAndrews
of Buffalo Police Department and Clayton Reed
(Police officer)

did the following to me (briefly state what each defendant named above did): I was Walking Down
Abbott Rd Buffalo Ny 14220 In front of Imperial
Pizza The Police Surrounded me and arrested me
Without a Warrant or Probable Cause. I was
Setup by these officers and prosecution. The Alleged
Victim Jessica Merkling Knows The FBI and
Works with the District Attorney's Niece Keane,

The constitutional basis for this claim under 42 U.S.C. § 1983 is: Fake Arrest

The relief I am seeking for this claim is (briefly state the relief sought): Civil Lawsuit.

Exhaustion of Your Administrative Remedies for this Claim:

Did you grieve or appeal this claim? ____ Yes ☒ No If yes, what was the result? ____

Did you appeal that decision? ____ Yes ☒ No If yes, what was the result? ____

Attach copies of any documents that indicate that you have exhausted this claim.

If you did not exhaust your administrative remedies, state why you did not do so: N/A

If you have additional claims, use the above format and set them out on additional sheets of paper.

6. RELIEF SOUGHT

Summarize the relief requested by you in each statement of claim above.

Civil Lawsuit.

Do you want a jury trial? Yes ☒ No ____

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 9/23/24
(date)

NOTE: *Each plaintiff must sign this complaint and must also sign all subsequent papers filed with the Court.*

Brandon Chotz

Signature(s) of Plaintiff(s)

NAME: Rendon Ortiz ICN# 13856
ERIE COUNTY CORRECTIONAL FACILITY
11581 WALDEN AVENUE
ALDEN, NEW YORK 14004



United States District Court
Western District of New York
2 Niagara Square
Buffalo Ny 14202

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(POT)



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Correction